S.B. CIVIL MISC. APPEAL NO.1888/2006
(Harbans Kour & ors. Vs. National Insurance Co. Ltd. & ors.)

Date of Order :: 7th February 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.R.S.Gill for the appellants

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Heard learned counsel.

For awarding compensation to the wife (about 48 years of age) and two sons (about 28 and 26 years of age) of the vehicular accident victim Gamdoor Singh, said to be a pensioner and also working as Chowkidar and so also on agriculture, the Tribunal has referred to the evidence available on record and with reference to the post mortem report and the age of the claimants, has taken age of the deceased at 55 years and his notional income at Rs.15,000/- per annum; has taken the same figure of Rs.15,000/- as multiplicand and with application of multiplier of 8, has assessed pecuniary loss at Rs.1,20,000/-. The Tribunal has further allowed Rs.25,000/- to each of the three claimants towards non-pecuniary loss and further Rs.2,000/- towards funeral expenses and Rs.1,000/- towards litigation expenses and in this manner has awarded compensation in the sum of Rs.1,98,000/-. The Tribunal has further proceeded to allow interest at the rate of 9% per annum

from the date of filing of claim application after adjustment of the amount of Rs.50,000/- received under No Fault Liability. The claimants seek enhancement over the amount awarded by the Tribunal in this appeal.

It has been strenuously contended by Mr. R.S.Gill appearing for the appellants that the Tribunal has seriously erred in: (i) applying multiplier of 8 only though the age of the deceased was about 50 years; (ii) not awarding any amount towards hospitalisation and related expenses; (iii) awarding lesser amount on funeral and other expenses.

Having examined the award impugned, this Court is satisfied that the amount awarded by the Tribunal in Claim Case No.10/2003 in the common award dated 18.08.2006 stands rather on the higher side ruling out any scope of enhancement.

The deceased was allegedly having about 8 bighas of irrigated agricultural land and was a retired military personnel. By the very nature of things, a larger part of the agricultural income retains itself to the claimants. For want of any other cogent evidence, the Tribunal cannot be said to have erred in taking multiplicand of Rs.15,000/- and applying the multiplier of 8 by taking age of the deceased at 55 years as mentioned in the post mortem report. Thereafter, the Tribunal has proceeded to allow Rs.25,000/- to each of the three

claimants towards non-pecuniary loss. The amount of Rs.75,000/- thus allowed towards non-pecuniary loss definitely stands on the higher side. The Tribunal has not restrained itself even while awarding interest and has allowed the same at the rate of 9% per annum. Such rate of interest in the award made in the month of August, 2006 stands much on the higher side.

In view of the aforesaid, the ultimate award made by the Tribunal in favour of the claimants could only be said to be standing rather on the higher side and in any case cannot be said to be too low or inadequate. There remains no scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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